ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	IB Docket No. 95-22
Market Entry and Regulation of	)	RM-8355
Foreign-Affiliated Entities	)	RM-8392

REPLY COMMENTS OF COMMUNICATION TELESYSTEMS INTERNATIONAL

Communication TeleSystems International ("CTS") submits these reply comments in response to the Commission's Notice of Proposed Rulemaking of February 17, 1995, as amended by the Order of March 15, 1995, extending the response deadlines ("NPRM"). The importance of this proceeding is shown by the multitude of opening comments filed by more than 50 parties, according to our count.

In its opening comments, CTS advocated: (1) a small U.S. carrier exemption from the proposed potential deterrent to foreign-carrier investments in emerging U.S. international carriers; (2) the avoidance of any artificial "facilities-based" carrier definition lest anti-competitive consequences result; and (3) the adoption of affirmative obligations for FCC licensees who have a propensity to file petitions to deny or delay procompetitive market entry applications. CTS will further support the foregoing proposals in these reply comments.

I. SMALL U.S. CARRIER EXEMPTION

CTS proposed an exemption of U.S. carriers with gross annual revenues from international services of less than $125 million and control of no U.S. bottleneck facilities, from the

rules and policies proposed in the NPRM. This exemption for foreign carriers seeking to invest in emerging U.S. international carriers, would avoid the discouragement of the flow of foreign capital into this category of U.S. international carriers, whose successful operations would bring procompetitive benefits to U.S. consumers.

The proposed $125 million gross revenue threshold is identical to the one adopted by the Commission for competitive bidding eligibility for "entrepreneurs' blocks" of radio frequency bands for personal communications services. Competitive Bidding, 10 FCC Rcd 403, 415 (1994) (Fifth Memorandum Opinion and Order); 9 FCC Rcd 5532, 5600 (1994) (Fifth Report And Order). In Competitive Bidding, the FCC accorded this entrepreneurs' bidding preference because "small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit." 9 FCC Rcd supra at 5537-38. In the past, the Commission has found that emerging types of communications entities, like private satellite systems in 1990[1/] and cable TV systems in 1976[2/], needed foreign sources of capital in order to stimulate competition for the benefit of users.

In the instant proceeding, many of the commenting parties noted that foreign sources of capital for U.S. carriers are beneficial for U.S. consumers.[3/] Indeed, the Commission has recognized the danger that its proposed regulations might "discourage procompetitive foreign

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1/ Orion Satellite Corporation, 5 FCC Rcd 4937, 4940 (1990).

2/ Cable TV Citizenship Requirements, 59 F.C.C. 2d 723, 727 (1976).

3/ Deutsche Telekom AG at 26-27; France Telecom at 10; LDDS Communications, Inc. at 2, 6; Sprint Communications Company L.P. at 17; and Transworld Communications (U.S.A.), Inc. at 3.

investment." NPRM, ¶ 60. See also, NPRM ¶ 52 ("benefit from foreign carrier investment"); and NPRM ¶ 58 (desirable "ability of U.S. carriers to attract foreign investments").

If the Commission decides to adopt the rules and policies proposed in the NPRM, the public interest would be served by the inclusion of the small U.S. carrier exemption proposed herein.

II. FACILITIES-BASED CARRIER DEFINITION

In its opening comments, CTS urged the Commission to avoid any artificial "facilities-based" carrier definition [which apparently would require ownership rather than lease even of the U.S. common carrier cable half circuit (NPRM, ¶ 71)] because foreign carriers are often more reluctant to grant operating agreements to U.S. carriers classified by the FCC as resellers rather than as facilities-based carriers.

Absent foreign carrier operating agreements, emerging U.S. international carriers often turn to the alternative of becoming their own foreign correspondents. Such U.S. carriers, however, cannot obtain FCC authority to interconnect foreign leased half circuits into the U.S. public switched telephone network ("PSTN"), unless the foreign country involved has been found to qualify under the FCC's "equivalency requirement" established in the International Resale Policy Decision, 7 FCC Rcd 559, 561-62 (1991). See, NPRM, ¶ 77. To date, the Commission has granted such equivalency status only to two countries, Canada and the U.K.

Therefore, emerging U.S. international carriers wishing to become their own foreign correspondents in all of the other foreign countries are relegated to providing international

private line ("IPL") service. However, if customers need to interconnect their IPLs into the U.S. PSTN at the international carriers' U.S. central operating offices, the fact that the U.S. carriers can only lease rather than own their foreign half circuits may preclude their offering of this more marketable category of IPL service. See opening comments of IDB Communications, Inc. at 25-30.[4/]

The adoption of the NPRM's proposed "facilities-based" carrier definition could become a triple-edged sword that might be used to sever all competitive alternatives available to emerging U.S. international carriers. First, the own-rather-than-lease requirement for the U.S. common carrier cable half circuits could thwart these carriers' endeavors to obtain foreign carrier operating agreements. Second, the own-rather-than-lease requirement for the foreign common carrier cable half circuits could prevent the emerging U.S. international carriers from becoming their own foreign correspondents for U.S. PSTN-interconnected services everywhere except Canada and the U.K. Third, the same barrier, mentioned in the preceding sentence, could apply to IPL circuits interconnected into the U.S. PSTN at the U.S. central operating offices of the emerging U.S. international carriers. Accordingly, the Commission is respectfully requested to avoid these anticompetitive consequences that would flow from the adoption of the proposed "facilities-based" carrier definition.

[4/] "It bears emphasis that the Commission's current policy, as articulated in CC Docket No. 90-337, is to permit U.S. business customers in engage in facilities-based IPL interconnection through central office interconnection. That policy would be effectively overturned if the Commission defined all 'foreign leased circuits' to be a resale activity subject to the IPL resale policy. In so doing, the Commission would have effectively granted AT&T's petition for reconsideration in CC Docket No. 90-337, Phase II, seeking an expansion of the IPL resale policy to prohibit IPL interconnection at carriers' central offices." IDB Comments, supra, at 27.

III. AFFIRMATIVE OBLIGATIONS FOR CARRIER PETITIONERS

As explained in CTS' opening comments, if the Commission were to adopt elaborate foreign carrier market entry rules, FCC licensees who have a propensity to file petitions to deny or delay market entry applications could frivolously invoke such rules to restrain competition. Accordingly, CTS proposed that the Commission amend Sections 1.65 and 63.52(c) of its Rules to require full, complete and verified disclosure of the petitioning carrier's activities, alliances, affiliations, representatives and operations within the countries covered by the protested application.

CTS referred to AT&T's (1) propensity to petition against all PSTN-interconnected resale applications; and (2) recalcitrancy to disclose the details of its own WorldPartners and Uniworld foreign resale activities in the very countries that FCC resale applicants sought to serve. The opening round of comments shows a groundswell of requests for the assertion of FCC jurisdiction over AT&T's WorldPartners/Uniworld activities. See Comments of ACC Global Corp. at 8; BT North America, Inc. at 13-15; Deutsche Telekom AG at 29, 59-60; France Telecom at 12-14; MCI Telecommunications Corporation at 12-15; MFS International, Inc. at 3, 7-10; NYNEX Corporation at 12-13; Sprint Communications Company L.P. at 18-19; Teleglobe, Inc. at 30-31; and TLD at 52-60.

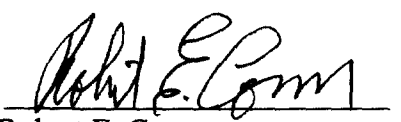
The recommendations in the above-listed comments for the assertion of FCC jurisdiction over AT&T's WorldPartners/Uniworld activities range from investigative and reporting requirements to prior Commission approval before such AT&T activities could be undertaken. Indeed, even AT&T offered to "support a requirement that all co-marketing agreements should be

reported to the Commission," provided that all U.S. carriers were covered by any such requirement. AT&T Corp. at 20.

The Commission should devise effective methods of regulating AT&T's WorldPartners/ Uniworld activities including, but not limited to, those proposed by CTS.

Respectfully submitted,

COMMUNICATIONS TELESYSTEMS INTERNATIONAL

By: 

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